

STATE OF MICHIGAN  
COURT OF APPEALS

---

CATHERINE M. WALTERS,

Plaintiff-Appellant,

V

DEPARTMENT OF MANAGEMENT &  
BUDGET, DEPARTMENT OF TREASURY,  
DEPARTMENT OF CIVIL SERVICE, CIVIL  
SERVICE COMMISSION, and CARLA E.  
WILLS,

Defendants-Appellees.

---

UNPUBLISHED

June 10, 2003

No. 234339

Ingham Circuit Court

LC No. 01-093010-CL

Before: O’Connell, P.J., and Griffin and Markey, JJ.

PER CURIAM.

Plaintiff appeals by right an order dismissing her claims with prejudice pursuant to MCR 2.116(C)(7). We reverse in part and affirm in part.

Plaintiff filed a complaint in circuit court against various state agencies seeking money damages based on several claims arising out of her termination and resolution of her subsequent grievances. Although the trial court acknowledged on the record that the Court of Claims had exclusive jurisdiction over plaintiff’s claims, the trial court nonetheless dismissed her claims with prejudice pursuant to MCR 2.116(C)(7), reasoning that because her claims were barred by the statute of limitations and *res judicata*, plaintiff had no likelihood of success on the merits were she to refile her case in the Court of Claims. We review *de novo* the trial court’s grant of summary disposition and whether it had subject matter jurisdiction. *Michigan Basic Property Ins Ass’n v Detroit Edison Co*, 240 Mich App 524, 528; 618 NW2d 32 (2000).

Const 1963, art 6, § 13 grants to circuit courts “original jurisdiction in all matters not prohibited by law . . . .” Also, the Legislature has provided that circuit courts have “power and jurisdiction: . . . [p]rescribed by rules of the supreme court.” MCL 600.601(1)(C). Further, circuit courts “have original jurisdiction to hear and determine all civil claims and remedies, except where exclusive jurisdiction is given in the constitution or by statute to some other court or where the circuit courts are denied jurisdiction by the constitution or statutes of this state.” MCL 600.605; *Silverman v Univ of Michigan Bd of Regents*, 445 Mich 209, 212 n 4; 516 NW2d 54 (1994). Here, the trial court correctly recognized that the Court of Claims has exclusive

jurisdiction over claims for money damages against the state and its departments and agencies. MCL 600.6419; *Silverman, supra* at 217 (“A complaint seeking money damages from the state as well as equitable or declaratory relief against the state may only be filed in the Court of Claims, because that is the sole forum that is capable of deciding the whole case.”). Therefore, the trial court correctly concluded that it had no jurisdiction over plaintiff’s claims. We must, however, reverse part of the trial court’s order because a court without subject matter jurisdiction cannot effectively dismiss a claim with prejudice. Plaintiff’s complaint must be dismissed without prejudice.

When a court lacks subject matter jurisdiction, “the court’s acts and proceedings are of no force and validity.” *Trost v Buckstop Lure Co*, 249 Mich App 580, 586; 644 NW2d 54 (2002). Thus, if a court lacks subject matter jurisdiction to hear and determine a claim, “any action it takes, other than to dismiss the action, is void.” *Bowie v Arder*, 441 Mich 23, 56; 490 NW2d 568 (1992), citing *Fox v Univ of Michigan Bd of Regents*, 375 Mich 238, 242; 134 NW2d 146 (1965). Therefore, the trial court’s order dismissing plaintiff’s claims with prejudice is void.

Although the trial court lacked subject matter jurisdiction concerning the allegations in plaintiff’s complaint, it possessed jurisdiction conferred by statute, MCL 600.2591, and by court rules, MCR 2.114; MCR 6.265(2), to assess costs and reasonable attorney fees for filing a frivolous claim. MCL 600.601(1)(C). Moreover, the trial court possessed inherent authority independent of statute or court rule to sanction misconduct by a party or an attorney appearing in its court. *Persichini v William Beaumont Hospital*, 238 Mich App 626, 639-641; 607 NW2d 100 (1999). We review for clear abuse the trial court’s exercise of its inherent authority to sanction misconduct. *Persichini, supra* at 642; *Brenner v Kolk*, 226 Mich App 149, 160; 573 NW2d 65 (1997). A trial court abuses its discretion when the result is so palpably and grossly contrary to fact and logic that it evidences perversity of will or the exercise of passion or bias rather than the exercise of discretion. *Persichini, supra* at 632; *Schoensee v Bennett*, 228 Mich App 305, 314-315; 577 NW2d 915 (1998).

A trial court’s finding whether a claim or defense was frivolous is reviewed for clear error. *Kitchen v Kitchen*, 465 Mich 654, 661; 641 NW2d 245 (2002); *In re Attorney Fees & Costs*, 233 Mich App 694, 701; 593 NW2d 589 (1999). The trial court commits clear error when, although there is evidence to support its finding, the reviewing court is left with a definite and firm conviction that a mistake was made. *Kitchen, supra* at 661-662; *In re Attorney Fees & Costs, supra* at 701.

Under MCL 600.2591(1) and (2), the prevailing party shall, upon motion and a finding that a claim or defense was frivolous, be awarded as against the nonprevailing party and their attorney reasonable costs actually incurred and reasonable attorney fees. A claim or defense is frivolous when: (1) the party’s primary purpose was to harass, embarrass or injure the prevailing party; (2) the party had no reasonable basis to believe that the underlying facts were true; or (3) the party’s position was devoid of arguable legal merit. MCL 600.2591(3)(a), *Kitchen, supra* at 662.

Also, the signature of a party or an attorney on a pleading or other document required by MCR 2.114(C) constitutes a certification that: (1) the signor has read the pleading; (2) to the best of the signor’s knowledge, information and belief after reasonable inquiry, the pleading is well

grounded in fact and is warranted by existing law or a good-faith argument for the extension, modification, or reversal of existing law; and (3) the pleading is not interposed for any improper purpose, such as to harass or to cause unnecessary delay or needless increase in the cost of litigation. MCR 2.114(D); *FMB-First Michigan Bank v Bailey*, 232 Mich App 711, 720; 591 NW2d 676 (1998). If a pleading is signed in violation of MCR 2.114, the party or attorney or both must be assessed an appropriate sanction, which may include reasonable attorney fees. MCR 2.114(E). Furthermore, pursuant to MCR 2.114(F), a party that files a frivolous claim or defense is subject to assessment of costs under MCR 2.625(A)(2), which incorporates MCL 600.2591. *In re Costs & Attorney Fees (Powell Production, Inc v Jackhill Oil Co)*, 250 Mich App 89, 101; 645 NW2d 697 (2002).

If the trial court properly finds that an award of costs and attorney fees is appropriate, we review the trial court's determination of a reasonable award for an abuse of discretion. *Wood v DAIIIE*, 413 Mich 573, 588; 321 NW2d 653 (1982); *Bolt v Lansing (On Remand)*, 238 Mich App 37, 61; 604 NW2d 745 (1999). No set formula is applied in making such a determination, but the trial court should consider the following factors: (1) the professional standing and experience of the attorney, (2) the skill, time and labor involved, (3) the amount in question and the results achieved, (4) the difficulty of the case, (5) the expenses incurred, and (6) the nature and length of the professional relationship with the client. *Wood, supra*, adopting guidelines from *Crawley v Schick*, 48 Mich App 728, 737; 211 NW2d 217 (1973). There is no requirement that the trial court detail its findings with respect to each specific factor considered. *Wood, supra*.

In this case, plaintiff had ample notice that her legal position was without arguable merit. Three trial courts and this Court had already rejected plaintiff's appeals from administrative decisions relating to her termination and the handling of her grievances when she filed the instant complaint. The trial court did not clearly err in finding that her complaint was frivolous under MCL 600.2591(3)(a)(iii). Furthermore, plaintiff had no reasonable basis to believe that she was hired as anything but a limited-term employee who could be dismissed at the department's discretion. Both her hiring letter and her own testimony before Judge Harrison constitute strong evidence of plaintiff's employment status. Therefore, plaintiff's complaint was also frivolous under MCL 600.2591(3)(a)(ii). Moreover, we agree with the trial court's conclusion that plaintiff's claims would be barred by res judicata and the statute of limitations. In sum, the trial court did not clearly err or abuse its discretion by finding that plaintiff's complaint was frivolous and that assessment of costs and attorney fees were justified in this case.

We also find no abuse of discretion in the trial court's assessing \$1,670 in attorney fees. This figure was based on an attorney with nine years' experience having spent eleven hours on the case and charging \$150 per hour, plus a \$20 motion fee.

Reversed in part, affirmed in part, and remanded for entry of an amended order dismissing plaintiff's claims without prejudice under MCR 2.116(C)(4). We do not retain jurisdiction.

/s/ Peter D. O'Connell  
/s/ Richard Allen Griffin  
/s/ Jane E. Markey